

PATENT

T075A/TELNP333US

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Date: November 7, 2008

/Stacey Bussey/
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

Applicant(s): Ynjiun P. Wang, *et al.*

Serial No: 10/016,001

Filing Date: December 10, 2001

Examiner: Romain Jeanty

Art Unit: 3623

Conf. No: 3855

Title: UNIVERSAL PRODUCT INFORMATION LOOKUP AND DISPLAY SYSTEM

**Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

REPLY BRIEF

Dear Sir:

Applicants' representative submits this Reply Brief in response to the Examiner's Answer dated September 9, 2008. In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [TELNP333US].

REMARKS

Claims 1-2, 4, 16-20, 22, 26-27, and 31-34 are currently pending and are presently under consideration. Favorable reconsideration of the subject patent application is respectfully requested in view of the comments herein. In particular, the following comments address deficiencies contended in the Examiner's Answer to applicants' Appeal Brief.

I. Regarding the Rejection of Claims 1-2, 16-20, 22, 26-27, and 31-34 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claims 1-2, 16-20, 22, 26-27, and 31-34 under 35 U.S.C. §103(a) as being unpatentable over Hudetz *et al.* (US 5,978,773) in view of Anderson *et al.* (US 5,974,396). It is submitted that this rejection be reversed for at least the following reasons. Neither Hudetz *et al.* nor Anderson alone or in combination, teach or suggest all aspects recited in the subject claims.

A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. See *KSR v. Teleflex*, 550 U.S. ___, 127 S. Ct. 1727 (2007) citing *Graham v. John Deere Co. of Kansas City*, 383 U. S. 1, 36 (warning against a “temptation to read into the prior art the teachings of the invention in issue” and instructing courts to “guard against slipping into the use of hindsight” (*quoting Monroe Auto Equipment Co. v. Heckethorn Mfg. & Supply Co.*, 332 F. 2d 406, 412 (CA6 1964))).

The claimed subject matter relates to *providing demographic information about a consumer to a product manufacturer by utilizing data packet information that transfers the information inquiry (made by the consumer) to the manufacturer, or transmitting demographic information comprising geographic origin of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request, or transmitting demographic information about the consumer to the product manufacturer via employing a Domain Name Service (DNS) to translate Internet Protocol (IP) mapping information transferred by the consumer when requesting a web page in order to discern at least a geographic origin of a consumer request*, as respectively recited in independent claims 1, 16 and 22. Independent claim 34 also recites similar limitations. Neither of the cited references

teaches nor suggests such features of the claimed subject matter.

Hudetz *et al.* relates to a system and method for using identification codes found on ordinary articles of commerce to access remote computers on a network. As conceded by the examiner, Hudetz *et al.* does not teach *transmitting demographic information* comprising geographic origin of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request and Anderson is relied upon to overcome such deficiencies. Anderson relates to a retailer querying and analyzing consumer purchasing information based on product and consumer clustering relationships stored in a relational database; and this reference does not make up for the aforementioned deficiencies of Hudetz *et al.*

At page 5 of Examiner's answers, it is erroneously contended that Anderson discloses *transmitting demographic information* comprising geographic origin of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request, with respect to independent claim 16 and transmitting demographic information about the consumer to the product manufacturer *that transfers the information inquiry (made by the consumer) to the manufacturer*, with respect to independent claim 1. The cited reference (Anderson) provides a frequent shopper system which includes retail point of sale subsystem and user interface, consumer application subsystem, *consumer purchase repository subsystem* (a relational database) and a market analysis subsystem. The consumer application sub system provides a mechanism by which consumers provide demographic and other characteristic information as consumer data to the *consumer purchase repository subsystem*. Data is characterized by market analysis subsystem and stored in clusters (product or consumer). Various buying behaviors and patterns are extracted from the cluster data stored in the consumer *purchase repository*. Consumer and product information retrieved from consumer *purchase repository* is forwarded to direct marketing subsystem (*See*, Col. 6, lines 24-48). *A retailer queries the database to determine* which customers spend the most money overall or any particular time of year (*See*, Col. 10, lines 47-50). Hence Anderson provides a *consumer purchase repository subsystem* which is used by retailers to query desired information required for effectively target specific consumers with relevant advertisement and promotional work. More particularly, Anderson provides for *retailer making information inquiry to the consumer purchase repository subsystem* for determining demographics information about the consumers. However Anderson does not contemplate *utilizing the consumer inquiries at the web page* and

transmitting demographic information comprising geographic origin *of the consumer inquiry* to the product manufacturer by utilizing information transferred within the web page request. Hence Anderson requires *retailers to make information inquiry* at the relational database (consumer purchase repository subsystem) to extract specific consumer buying patterns, habits, demographics, cultural backgrounds, or other personal characteristics. However independent claim 16 recites ***transmitting demographic information*** comprising geographic origin ***of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request*** and independent claim 1 recites ***allowing a consumer to make a product information inquiry to the web site address*** corresponding to UPC symbol data and *transmitting demographic information comprising at least geographic location of the consumer to the product manufacturer by utilizing data packet information that transfers the information inquiry (made by the consumer at the website address and not by the retailer at the database) to the manufacturer.*

Further, the consumer purchase repository subsystem has consumer lists of only those consumers who *purchased* at least a product and not those consumers who didn't *purchase* any product and only made *information enquiry or enquired information about some products*. However independent claim 16 recites transmitting demographic information comprising geographic origin ***of the consumer inquiry*** (*only the inquiry made by consumer and not purchase of products*) to the product manufacturer by utilizing information transferred within the web page request, independent claim 1 recites allowing a consumer to make ***a product information inquiry*** to the web site address corresponding to UPC symbol data and transmitting demographic information comprising at least geographic location of the consumer to the product manufacturer by utilizing data packet information that transfers ***the information inquiry*** (*only the inquiry made by the consumer and not purchase of products*) to the manufacturer and independent claim 16 recites transmitting demographic information about the consumer to the product manufacturer *via* employing a Domain Name Service (DNS) to translate Internet Protocol (IP) mapping information transferred by the consumer ***when requesting a web page*** (*only request of information from a webpage and not purchase of products*) in order to discern at least a geographic origin of a consumer request.

At page 8 of Examiner's answer, Examiner submits that Anderson teaches receiving consumer information describing demographic characteristics of various consumers, grouping consumers into consumer clusters based on specifically defined demographics criteria and *transferring the demographic information to a manufacturer*. Applicants' representative

respectfully disagrees and submits that Anderson provides for transferring the demographic information to a manufacturer based upon enquiry made by only the retailers or manufacturers to the relational database (consumer purchase repository subsystem) and not based upon enquiry made by the consumer to said website address (or a retail chain), as recited in line 9 and 12-14 of independent claim 1. The indicated portion of reference (Anderson) provides for a relational database maintaining product, consumer and transactional data in a retail chain. *A retailer queries the relational database using selected criteria, accumulates data generated by the database in response to that query* and makes business and marketing decisions based on that accumulated data. The method further includes receiving consumer information describing demographic characteristics of various consumers, grouping consumers into consumer clusters based on specifically defined demographics criteria and analyzing product transactions in terms of those consumer clusters to determine relationships between consumers and products. The clustering technique permits a manageable amount of data to be extracted from a much larger amount of transactional, product and demographics data, maintained and readily accessible in a database (See, Col. 2, line 56-Col. 3, line 29). Hence the cited reference (Anderson) provides for *retailer or manufacturer making information enquiry to the relational database (consumer purchase repository subsystem) to extract demographic information*, buying patterns, habits and cultural background of the consumers who purchased some products at a store. However, independent claim 16 recites *transmitting demographic information* comprising geographic origin of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request and independent claim 1 recites that *the consumer making a product information inquiry to the web site address* corresponding to UPC symbol data and *transmitting demographic information* comprising at least geographic location of the consumer to the product manufacturer by utilizing data packet information that transfers the information inquiry (made by the consumers) to the manufacturer (See, Claim 1, line 9 and 12-14). More particularly, the claimed subject matter provides for consumers making the information inquiry at the website address and transfer of demographic information about the consumers who made information inquiry at the website address to the manufacturers. On the contrary, the reference (Anderson) requires retailers or manufacturers to make information inquiry to the relational database (consumer purchase repository subsystem) to extract demographic information about the consumers. Further since the consumer purchase repository subsystem, provided by Anderson, includes demographic information only about the

consumers who purchased at least one product and does not include information about the consumers who only made product information inquiry to the web site address and did not purchase any product. *Hence the retailers can not determine demographic information about the consumers who only made product information inquiry to the web site address and did not purchase any product, by making enquiry at the consumer purchase repository subsystem* since the consumer purchase repository subsystem do not include demographic information about such consumers. Hence Anderson fails to teach or suggest *transmitting demographic information* comprising *geographic origin of the consumer inquiry to the product manufacturer by utilizing information transferred within the web page request*, as recited in independent claim 16 and *the consumer making a product information inquiry to the web site address* corresponding to UPC symbol data and *transmitting demographic information* comprising at least geographic location *of the consumer to the product manufacturer by utilizing data packet information that transfers the information inquiry (made by consumers) to the manufacturer*, as recited in independent claim 1.

From the foregoing it is clear that Hudetz, *et al.* and Anderson either separately or in combination fail to make obvious the subject claims. Hence, it is requested that this rejection be reversed.

II. Regarding the Rejection of Claim 4 Under 35 U.S.C. §103(a)

The Examiner incorrectly maintains the rejection of claim 4 under 35 U.S.C. §103(a) as being unpatentable over Hudetz *et al.* (US 5,978,773) and Anderson *et al.* (US 5,974,396) as applied to claim 1, and further in view of Kaplan (US 5,963,916). This rejection should be reversed for at least the following reasons. None of the cited references teach or suggest all limitations recited in the subject claim.

Claim 4 depends from independent claim 1 and, as stated *supra*, neither Hudetz, *et al.* nor Anderson teach or suggest all limitations of claim 1 and Kaplan, *et al.* fails to make up for the aforementioned deficiencies. Independent claim 1 recites a method of conveying a consumer's demographic information to a manufacturer, whereby a scanned bar code of a product can be used to access the manufacturer's website for a product information inquiry made by consumer and in the process, the demographic information of the consumer can be captured and conveyed to the manufacturer *by utilizing data packet information that transfers **the information inquiry** (made by the consumers) to the manufacturer*. Kaplan, *et al.* relates to on-line network web site

for interactive preview of a portion of a pre-recorded product by the user but does not teach or suggest providing demographic information about the consumer to the product manufacturer by utilizing data packet information transferred to the manufacturer as a result of the information query, as claimed.

Based on at least the foregoing, none of the cited references teach or suggest all claim limitations. Accordingly, reversal of this rejection is respectfully requested

III. Conclusion

The subject application is believed to be in condition for allowance in view of the above comments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063 [TELNP333US].

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicants' undersigned representative at the telephone number below.

Respectfully submitted,

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